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**From:** Lawler, Michael (DPH)  
**Sent:** Thursday, January 07, 2010 10:58 AM  
**To:** Nassif, Julianne (DPH); Salemi, Charles (DPH); O'Brien, Elisabeth (DPH); Saunders, Della (DPH); Piro, Peter (DPH)  
**Subject:** screening ADA initial contact away from the chemists

Prior to Melendez –Diaz, the number of requests for discovery packages was minimal and with one or two requests over the span of a year, we lost no significant analytical time. Chasing back receipts and documents of colleagues a couple of times a year was manageable and did not intrude upon analytical operations. Chemists were able to accommodate requests directly with relative ease. This is no longer the case and we have been evolving a process which facilitates record requests and reduces the responsibility of the chemist in routing the requests.

The evolving mode of having requests come by summons to the evidence office for the first level of action accomplishes the following:

- 1) the chemists are *relieved* of receiving individual e-mail requests for discovery, which obliges them to:
  - a) bring the request to the attention of the evidence office and identify and alert other chemists involved
  - b) follow up personally with the ADA to get necessary identifiers such as the State Lab number and the defendant's name
- 2) the evidence office may more quickly identify by receipt that a defendant's name is incorrect, the SLI number is incorrect and that more submissions than the one's requested are associated with a defendant
- 3) the evidence office may contact back the DA office requesting the material when a contact person is not identified; that is, the prosecutors name
- 4) the summons is more readily at hand for addition to the data base
- 5) the distribution of the request to the particular chemists is in the hands of a single individual in the evidence office, not each chemist redundantly seeking to alert necessary parties

I would like to note in particular that in my 20 years of interaction with ADAs, I have required a summons to release this material for the security and integrity of the documents and indeed the privacy of the defendants themselves. I have experienced illegitimate attempts to gain records. An e-mail carries no authority with me as an agent of the Commonwealth. A summons alone identifies the authority of the request.

With respect to e-mails, there is another growing burden, which should be reduced by maintaining the regimen of responding to only summons to the evidence office rather than by e-mail to chemists. My experience as a town commissioner has revealed to me many times how accountable public servants are to their e-mail history (recall the Mennino flap during the election). Public officials must maintain proper archiving and capacity for retrieval of e-mails. Routing the requests by a **single faxed hard copy document** will reduce the growing amount of e-mails and replies, which are subject to retrieval and review.

Finally, I have to draw attention to the DA office which most consistently sends inadequate e-mail requests. The Essex County group are sending e-mails (with or without a summons attached) which most often bear only a police case number, obliging the chemist to start an e-mail chase to account for the handling of the matter. The Essex group routinely fails to even identify a contact person or prosecutor.

In consideration of the thoughts above, I would suggest we draft a specific protocol which delimits the production of discovery documents and court appearances to the single channel, by faxed summons to the evidence office. This single summons must include:

- 1) all associated State Lab numbers
- 2) the defendants name for a redundant check when drawing out the receipts
- 3) the name and number of a contact person for trouble-shooting problems
- 4) the name and address of the recipient of the discovery package

I am convinced that this approach will reduce the redundant efforts of chemists in the communication chain, gain analytical time for the lab work and reduce our accountability for e-mail communiqués which themselves are subject to discovery.

Other thoughts?